

# **State of Rhode Island and Providence Plantations**

## **Executive Office of Health & Human Services**



### **Access to Medicaid Coverage Under the Affordable Care Act:**

#### **New and Existing Eligibility Groups**

**September 20, 2013 (E)**



Executive Office of Health and Human Services  
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
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In accordance with Rhode Island General Laws §42-35-3(b), the Executive Office of Health and Human Services (EOHHS) is pursuing an emergency rule to ensure that Rhode Islanders are aware of the opportunities for affordable health coverage that will begin on October 1, 2013, when the on-line eligibility system Rhode Island developed in conjunction with federal health reform goes live. Due to delays in the promulgation of federal regulations governing the operations of the new systems, there was not sufficient time to pursue non-emergency rule-making. The EOHHS determined that informing Rhode Islanders of the scope and purpose of the new eligibility system, explaining its impact on new and existing coverage groups, and identifying the role and responsibilities of both the Medicaid agency and applicants are critical for ensuring that the rights of consumers are protected adequately during the period covered in this interim rule from October 1, 2013 to December 31, 2013. It is in this three month time span that the transition will begin to a new standard for determining income eligibility for Medicaid funded and other forms of affordable health coverage. It is crucial that consumers who are using the new on-line eligibility system during the interim rule period are informed fully that: (1) if deemed eligible, actual coverage will not begin until January 1, 2014; and (2) there may be options for obtaining coverage during the interim rule period by under already existing application rules and procedures. Additionally, the EOHHS is committed to making consumers who may benefit from the new on-line eligibility system aware of the advantages of applying during the interim rule period from October 1, 2013 through December 31, 2013. Therefore, the EOHHS is confident that emergency rule-making for the period of this interim rule is in the best interest of the health, safety and welfare of all Rhode Islanders.

During the interim rule period, the EOHHS will file a notice of intended action to initiate the promulgation of a final rule that will describe the full scope of changes in the Medicaid program to take effect on January 1, 2014. The proposed rule will be subject the full requirements for public notice and comment specified in R.I.G.L. §42-35-3. The final rule will supersede the interim rule in scope and effect.

**Rhode Island Executive Office of Health and Human Services**

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**Rules and Regulations**

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**Rhode Island Executive Office of Health and Human Services**

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**Rules and Regulations**

**0347**

**Access to Medicaid Coverage Under the Affordable Care Act:  
New and Existing Eligibility Groups**

**0347.01. Legal Basis**

The federal Patient Protection and Affordable Care Act of 2010 authorized the states to establish new ways to improve access to affordable health coverage. (The term “Affordable Care Act” or “ACA” refers both to the Patient Protection and Affordable Care Act of 2010 (Public Law 111-148) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-15). As part of the process of creating health insurance marketplaces, participating states must develop on-line eligibility systems that, when fully operational, will have the capacity to determine whether an individual and/or family is eligible to enroll in a health plan paid for by Medicaid, or in whole or in part through publicly funded tax credits and subsidies, or by the enrollee(s).

The ACA also provided the states with the option to expand Medicaid State Plan coverage, effective January 1, 2014, to adults ages 19 to 64 years, without dependent children, who meet certain citizenship and income requirements. States pursuing this option are required by federal law and regulations adopted on July 15, 2013 (Code of Federal Regulations 42 CFR Parts 431, 435, 436, et. seq.) to have their health insurance marketplaces and new on-line eligibility systems operational by October 1, 2013, to enable interested persons to assess whether they qualify for the new ACA Medicaid coverage group as well as other insurance coverage options prior to the January 1, 2014 effective date.

**01. Scope** --Under the authority granted in the ACA and applicable State law, including Executive Order 11-09, Rhode Island created its own health marketplace and on-line eligibility system, previously referred to as a “health benefit exchange”, and elected to take the option to expand Medicaid eligibility to the new ACA coverage group of adults, without dependent children, who have income up to 133% of the federal poverty line (FPL). Beginning on October 1, 2013 Rhode Islanders interested in obtaining health coverage under this new expansion group may apply through the health insurance marketplace (HealthSourceRI), the Department of Human Services (DHS) field offices or website, or the Executive Office of Health and Human Services website (EOHHS). Applicants found eligible will be able to enroll in one of two

Medicaid health plans during the period from October 1, 2013 to December 31, 2013. Actual coverage will begin on January 1, 2014.

**02. Purpose** --As there will be no changes in Medicaid coverage until January 1, 2014, the purposes of this interim rule are as follows:

01. To describe the new income standard that will be used to determine access to coverage for the ACA expansion group beginning on October 1, 2013;
02. To identify the principal role and responsibilities of the Medicaid agency and the State with respect to persons seeking eligibility for the new ACA expansion coverage group during the three month period from October 1, 2013 to December 31, 2013; and
03. To inform Rhode Islanders of their rights and responsibilities when seeking Medicaid eligibility as a member of the new ACA or existing coverage groups during this same period.

A final rule will be promulgated for inclusion in the RI Medicaid Code of Administrative Rules (MCAR), describing the full scope of changes to the Medicaid program that will go into effect on January 1, 2014. The final rule will be noticed for public comment and promulgated with adequate opportunity for public input during the period in which this interim rule is in effect.

#### **0347.02. Applicability of Interim Rule**

01. **Existing Coverage Groups** --Effective October 1, 2013, this interim rule is applicable to Rhode Islanders with eligibility under certain existing Medicaid coverage groups, but only to the extent specified: MCAR sections 0348.5 and 0349, applicable to low income families with dependent children (excluding families participating in RIWorks and children in substitute care through the RI Department of Children, Youth and Families (DCYF)); pregnant woman; and children up to age 19 with family income at or below 250% of the federal poverty level;
02. MCAR Sections 0351 and 0374 -- Applicable to low income adults with disabilities between the ages of 19-64. This coverage group is often referred to as "Community Medicaid."

**02. ACA Expansion Coverage** -- Effective October 1, 2013, this interim rule is applicable to persons applying under the new Medicaid ACA eligibility coverage group for adults between the ages of 19 and 64, with income up to and including 133% of the FPL, who do not have dependent children.

**03. Exemptions** -- The rule has no force or effect for Rhode Islanders seeking long term services and supports(LTSS) under Sections: 0370.20 (Katie Becket Program); 0374 (Integrated Care Initiative); 0378 (institutional based LTSS); and 0396 (home and community based LTSS) of the MCAR.

**0347.03. Application Process: No Wrong Door**

The State of Rhode Island is committed to making the process of applying for health coverage easy to navigate and understand. In keeping with this commitment, the Medicaid State Agency will accept applications through the Rhode Island's new on-line eligibility system via HealthSourceRI.com, and Contact Center (telephone or walk-in), the DHS website (dhs.ri.gov) or field offices, or the EOHHS website (ohhs.ri.gov). In addition, applications may be filed through navigator agencies or other in-person assisters (IPAs). A list of navigator agencies may be obtained on the eligibility system website (HealthSourceRI.com), DHS website (dhs.ri.gov), or the EOHHS website (ohhs.ri.gov).

**01. Existing Coverage Groups** --Persons who may be eligible for Medicaid under the existing coverage groups identified in 0347.02.01 may continue to apply in person or by mail, in accordance with the applicable sections noted above. During the interim rule period beginning on October 1, 2013, applicants will also have the ADDITIONAL option of applying through Rhode Island's new on-line eligibility system at [ohhs.ri.gov](http://ohhs.ri.gov), dhs.ri.gov, or the health insurance marketplace at [HealthSourceRI.com](http://HealthSourceRI.com).

01. Anyone applying on-line that is eligible to enroll in Medicaid under any of the existing coverage groups at the time of application will be directed to contact a representative of the Department of Human Services (DHS) or navigator agency to complete the application and enrollment process. Notification will also be sent to DHS agency representatives for follow-up when a person in one of these coverage groups makes application using the on-line eligibility system.
02. If approved for a Medicaid-funded health plan, coverage will extend back to the first day of the month that the completed application was made through the on-line eligibility system, just as it would if the application was made in person or through the mail. If contact with a DHS or navigator or in-person assistant is not made as directed, coverage will be delayed until a complete reapplication is made in person, or by mail or telephone and approved by the state agency.
03. Beginning on after January 1, 2014, the new income eligibility standards outlined in 0347.02 will be in effect to members of these existing coverage groups irrespective of how application is made – that is, through an approved website, in person, or by telephone or mail.

**02. ACA Expansion Coverage Group** -- Persons seeking eligibility under the new Medicaid expansion group may apply:

- Online directly through the <http://www.healthsourceri.com/> website, or through links located on the DHS <http://www.dhs.ri.gov> and EOHHS <http://www.ohhs.ri.gov> websites; or
- In person or by U.S. mail using a paper application entitled “Application for Health Care Coverage” (Paper applications may be downloaded from the EOHHS website, DHS website; or requested by calling 1-855-447-7747 or 1-888-657-3173 (TTY) or picked up at any DHS field office during the interim rule period).

**03. Application information** -- When applying for eligibility, applicants may need to have immediate access to certain kinds of information including: social security number(s), birth date(s), immigration information, previous federal tax returns, salary and wages forms (like W-2 and 1099s), and evidence of current or past health coverage through an employer or other organization.

01. Application information will be used only to determine what types of coverage a person is qualified to receive.
02. All application information will be kept private and confidential, in accordance with all applicable federal and state laws and regulations.
03. Applicants will have the option of mailing, delivering in person, or uploading electronically information needed to determine eligibility.

**04. State Role and Responsibilities** -- Under current state and federal laws, the Medicaid State Agency is required to:

01. Assist applicants in completing all necessary forms;
02. Provide applicants with an interpreter or translator services upon request;
03. Assure all information applicants provide is kept confidential unless otherwise authorized to share with other state and federal agencies for the purposes of verification and enrollment;
04. Make timely determinations of eligibility in accordance with applicable laws and regulations; and
05. Accept appeals and hold hearings on agency actions related to eligibility decisions in accordance with MCAR Section 0110 and the Department of Human Services’ rule #0110. (Note: the health insurance marketplace is referred to as the “RI Health Benefits Exchange” in Section 0110).

**05. Applicant Rights and Responsibilities -- All applicants have the following:**

01. Applicant Rights --The right to obtain help in completing forms; to an interpreter or translator, upon request; to be treated free from discrimination on the basis of race, color, national origin, sex, age or disability; to have personal information remain confidential; and to file an appeal and request a hearing on eligibility actions.
02. Applicant Responsibilities -- The responsibility to:
  - Disclose certain information including social security numbers and proof necessary to determine eligibility;
  - Report changes in income, family size and other application information as soon as possible; and
  - Sign the application and thereby agree to comply with any applicable laws related to the type of eligibility requested and the coverage received.

**0347.04. Eligibility Requirements**

The requirements for Medicaid eligibility are established in Rhode Island General Laws and the Medicaid Code of Administrative Rules and reflect the terms and conditions approved by the federal Centers for Medicare and Medicaid Services (CMS) in the Rhode Island Medicaid State Plan and the State's Medicaid, Title XIX, Section 1115 demonstration waiver. Changes in eligibility made through the State Plan and in conjunction with the State's Section 1115 demonstration waiver extension will be incorporated in the MCAR final rule to take effect with implementation of the ACA on January 1, 2014.

**01. Existing Coverage Groups --**During the interim rule period from October 1, 2013 to December 31, 2013, the application and eligibility requirements specified for the individuals and families covered under the sections identified in 0347.02.01 WILL NOT change. (Refer to the section applicable to coverage a group to see the applicable eligibility requirements).

**02. ACA Expansion Coverage Group--**To be eligible under the new ACA coverage group, a person must be:

- A Rhode Island resident as defined in Section 0304.10;
- A citizen of the United States or a legally present non-citizen who meets the requirements established in Section 0304.05;
- Not pregnant;
- Without dependent children;
- Not eligible for Medicare part A or B benefits; and



- Living alone or as part of a household with income at or below 133% of the federal poverty level. (Current information on income associated with the federal poverty levels is located on the EOHHS website.)

### **0347.05. Income Eligibility**

The ACA established a new standard and process for determining access to affordable health coverage known as Modified Adjusted Gross Income (“MAGI”). On January 1, 2014, this new income standard will be used to determine Medicaid eligibility for most people under age 65. Until then the way income is determined will differ -- MAGI v. NON-MAGI, depending on eligibility coverage group.

**01. Existing Medicaid Coverage Groups: No Change** -- Until January 1, 2014, income eligibility will be determined on the basis of the standards specified in the MCAR sections applicable to the coverage group that are in effect at the time the interim rule period begins. These standards are located in MCAR Sections: 0330 (Medicaid Income Generally), 0348.30 (Rite Care) and Sections 0351 and 0374 (adults 19 to 64 with disabilities).

01. **If applying on-line**, an initial determination of eligibility for the Medicaid expansion group will be conducted using MAGI. Applicants will be informed whether they are eligible under the expansion coverage group, effective January 1, 2014 AND whether they may be eligible under an existing coverage group at that time. Applicants who may be eligible under existing coverage groups will be directed to contact a representative of DHS, a navigator or an in-person assistor. To ensure proper follow-up, reports will be sent to DHS identifying applicants in existing coverage groups who applied on-line and may be eligible under requirements and standards in effect during the interim rule period
02. **If applying on line**, an applicant may elect to accept coverage based on income eligibility and continue to pursue traditional Medicaid eligibility under existing coverage groups. An applicant who has been denied MAGI eligibility and is appealing the decision, also may continue to pursue traditional Medicaid coverage.

**02. ACA Expansion Coverage Group: The New MAGI Standard** -- The MAGI income standard will be used to determine eligibility for the ACA expansion coverage group beginning on October 1, 2013. MAGI is adjusted gross income as determined under the federal income tax, plus any income earned in another country and tax-exempt interest that an applicant receives during the tax year. There are two factors related to the MAGI and federal income taxes which play an important role in determining income eligibility for ACA expansion group coverage -- family size and household income:

01. **Family Size** -- An applicant’s family size will be based the tax filing unit which is the number of personal exemptions claimed by the applicant on his or her tax return. This tax filing unit is used as the basis for determining the household income of the applicant.

02. Household Income -- For the purposes of this section, household income includes the MAGI of the applicant (taxpayer), spouse (if any), and any child or other person claimed as a tax dependent, including the income of any person who must report on a separate return but is still claimed as a dependent by the applicant.

**03. Application of the MAGI After January 1, 2014.** Beginning on January 1, 2014, eligibility for most NEW APPLICANTS for Medicaid who are under age 65 and included in one of the existing coverage groups will also be determined using MAGI and the tax filing unit. Individuals and families who are ENROLLED MEMBERS in a Medicaid plan on the January 1, 2014 effective date WILL NOT be subject to an eligibility redetermination using MAGI until after January 1, 2015.

01. The assets of an individual or family will not be considered in determining eligibility once use of MAGI begins for existing coverage groups.
02. The MAGI income eligibility standard WILL NOT apply to: children in DCYF substitute care, who automatically qualify for Medicaid; parents with children who are eligible for Medicaid due to participation the RIWorks/TANF program; and adults under between 19 and 64 seeking Medicaid eligibility based on disability status.

#### **0347.06. Verification of Eligibility Requirements**

There are a variety of methods used by the state to verify information related to eligibility requirements. Electronic data matches with government agencies will be used whenever feasible. Paper documents may be required also.

**01. Responsibility of Medicaid State Agency** --To the full extent feasible, both field staff and the on-line eligibility system will use electronic data matches to verify whether an applicant meets the applicable eligibility requirements. Applicants will be notified of any additional information or documentation required to verify eligibility immediately if using the on-line eligibility system. Persons applying in person or by U.S. mail will be notified in a timely manner of the need for any additional information or documentation required to verify eligibility. Depending on how a person applies and the type of information needed, the State will accept additional application material via web uploads, mail, telephone/fax or in person as indicated.

**02. Responsibility of Applicants** – All applicants must provide accurate and valid information in a timely manner. In addition, applicants will have the opportunity to “attest” to the validity of certain information. Attestation is an income declaration by an applicant when no data match is found or the information is outdated or incorrect. A series of questions will be asked through the on-line eligibility system to assist the applicant in declaring “self-attested” income at the time of

application. State staff will use data matching and a strong "post-eligibility" review process to ensure eligibility correct and the individual/family is enrolled in the correct program.

#### **0347.07. Enrollment**

**01. Existing Coverage Groups** -- Enrollment procedures will NOT change during the interim rule EXCEPT for new individuals and family applying through the on-line eligibility system. During the interim rule period, persons applying through this system who are found likely to be eligible to enroll in Medicaid under one of the coverage groups will be directed to contact a representative of the DHS, a navigator or an in-person assistor, or EOHHS to complete the application and, as appropriate, begin the enrollment process. As noted above, Medicaid coverage, if granted by the state agency, will extend back to the first day of the month that completed application was made.

**02. ACA Expansion Coverage Groups** -- Applicants determined to be eligible for Medicaid or other forms of affordable health coverage by the state agency are referred to as “customers” or “members” Members eligible under the ACA Medicaid expansion will be authorized to select and enroll in an approved plan. ACTUAL COVERAGE, INCLUDING PAYMENT FOR SERVICES, WILL NOT BEGIN UNTIL THE JANUARY 1, 2014 START DATE. All members will be given the opportunity to enroll in one of two health plans.

#### **0347.08. ACA Expansion Group Coverage Opportunity: Low Income Adults with Disabling Conditions Aged 19-64 Years**

Anyone person with a disability who is determined to be eligible under the Medicaid expansion coverage group solely on the basis of income is not required to meet the income and clinical criteria or the asset test set forth in MCAR Sections 0351/0374 if all other requirements in section 0347.03.02 are met.

#### **0347.09 Appeals and Hearings -- See MCAR Section 0110.**

#### **0347.10. Severability**

If any provisions of these Regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these Regulations which can be given effect, and to this end the provisions of these Regulations are declared to be severable.